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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF APPEALS

Representent of Application of: )  
**WRIGHT ET AL.** ) Examiner: D. Crosland  
 )  
Serial No. **09/976,647** ) Art Unit: 2612  
 )  
Filing Date: **October 11, 2001** )  
 )  
Confirmation No. **2560** ) Attorney Docket No.  
 ) ASD-15 (51021-CON1)  
FOR: **WIRELESS, GROUND LINK-BASED** )  
 **AIRCRAFT DATA COMMUNICATION** )  
 **SYSTEM WITH ROAMING FEATURE** )  
 )

**APPELLANTS' REPLY BRIEF**

**VIA EXPRESS MAIL**

MS Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Herewith is Appellants' Reply Brief that is submitted  
in reply to the Examiner's Answer to Appellants' Appeal Brief.  
If any additional extensions and/or fees are required,  
authorization is given to charge Harris Corporation Deposit  
Account No. **08-0870**.

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**I. Status of the Claims**

Claims 1-58 have been cancelled. Claims 59-75 are pending in the application, all of which are rejected and are being appealed herein. Applicants originally copied these claims verbatim from U.S. Patent No. 6,181,990 granted January 30, 2001 to John Francis Grabowsky and David Ray Stevens (hereinafter "Grabowsky) for purposes of provoking an interference with that patent.

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## **II. Grounds of Rejection to be Reviewed On Appeal**

In response to the arguments presented in Appellants' Appeal Brief, the Examiner has sustained the rejection as submitted in the Final Rejection and has not submitted a new ground of rejection.

Claims 59-75 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Examiner contends that the claim language "wherein said flight data includes time, air speed, altitude, vertical acceleration, and heading data relating to a flight of the aircraft" is new matter unsupported by the original disclosure.

Claims 59, 62-70 and 75 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,351,194 to Ross et al. (hereinafter "Ross") in view of U.S. Patent No. 4,729,102 to Miller, Jr. et al. (hereinafter "Miller '102"). Claims 60 and 71 stand rejected under 35 U.S.C. §103(a) as unpatentable over Ross and Miller 102 as applied in claims 59 and 70, and further in view of U.S. Patent No. 5,652,717 to Miller et al. (hereinafter "Miller '717"). Claims 61 and 72 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ross and Miller '102 as applied in claims 59 and 70, and further in view of U.S. Patent No. 5,943,399 to Bannister et al. (hereinafter "Bannister"). Claims 73 and 74 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ross in view of Miller '102 and further in view of U.S. Patent No. 5,463,656 to Polivka et al. (hereinafter "Polivka").

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### **III. Argument in Reply**

#### **A. The New Matter Rejection**

The Examiner reiterates the same rejection presented in the Examiner's Final Rejection. According to the Examiner, claims 59-75 add new matter and fail to comply with the written description requirement such that the claim language "wherein said flight data includes time, air speed, altitude, vertical acceleration, and heading data relating to a flight of the aircraft" is new matter unsupported by the original disclosure.

In the Response to Argument starting on page 9 of the Examiner's Answer, the Examiner argues that the flight data with respect to time, air speed, altitude, vertical acceleration, and heading data are specific transmitted data, and this data is not included in the original specification or drawings and Applicants have not disclosed this specific data for transmission. The Examiner argues that there are no supporting arguments that the specific data is inherent in a flight recorder and certainly no supporting argument that the specific data is transmitted. According to the Examiner, a flight recorder includes lots of data, but such data is not necessarily transmitted during landing, so there is no inherent transmission of the specific data. He indicates that a review of Applicants' disclosure lacks mention of the specific data for storage as well as transmission. The Examiner submits that even though the FAA requirement for the monitoring of data is specified by rule, there is no rule governing the transmission of the specific monitored data as represented in the claims. He states that

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Applicants cannot import data from one document such as the '717 document submitted as Exhibit 2. Such data must be present as originally filed, and this one document does not cure the defect. According to the Examiner, it does not matter if regulations with respect to parameters are required under FAA guidelines Section 121.343 (Exhibit 1). Such regulations with respect to governing parameters must be present in the original disclosure.

The Appellants disagree with the Examiner's arguments. Appellants' Appeal Brief in its Subsection 7, part B, on pages 15 and 16, quotes directly from the Summary of the Invention section of the instant application: "A principle function of the GDL unit is to store a compressed copy of the (ARINC 717) flight performance data generated by the DFDAU and supplied to the aircraft's flight data recorder."

Exhibit 1 relates to the FAA requirement for flight recorders, Section 121.343. It is not submitted as new matter. Exhibit 1 was submitted to show that certain flight performance data parameters by law are the MINIMUM flight performance data parameters that must be stored as a compressed copy in a flight data recorder. The Background of the Invention section of the instant application sets forth in detail these minimum requirements as essential flight performance data parameters. These flight performance data parameters are not some probability or possibility that the data will be stored. It is a legal requirement mandated by the FAA for a minimum set of flight performance data parameters to be stored. The Examiner

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is correct in his statement on page 10 of the Examiner's Answer that a flight recorder includes "lots of data." This lots of data, however, has one smaller section of data that must be stored in accordance with the legal requirements of the FAA. In accordance with the claimed invention, this stored flight performance data will be downloaded.

Appellants admit that a flight data recorder can store lots of data. At a minimum, however, certain flight performance data parameters must be accumulated and stored as specifically set forth in the detailed description and claims in accordance with FAA regulations. That minimum flight performance data, which is accumulated and stored, is not a possibility and not a probability, but is an essential legal requirement according to the FAA. It cannot be new matter. At landing, of course, that minimum accumulated and stored flight performance data will be transmitted in accordance with the claimed invention.

#### **B. The Rejection Over Ross and Miller**

The Examiner reiterates the same arguments concerning the obviousness rejection over Ross and Miller. More particularly, in his Response to Argument on page 11, the Examiner states that Ross clearly provides for the transmission of information in response to switch 14 being closed upon landing and that the data or information other than flight cancellation data is transmitted, referring to column 6 at lines 64-68. The status data, according to the Examiner, would

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include flight parameter data or data acquired by a controller such as the altitude, air speed and direction of the aircraft.

Appellants respectfully submit that the Examiner misplaces the function of switch 14. As noted in column 5, when switch 14 is manually or automatically operated, flight performance data is not transmitted. Only a single code having the aircraft identification number is transmitted to the controller. As a result, the flight plan is cancelled as noted specifically on lines 58-60:

"This information preferably is communicated in coded form to the controller 32. The information includes the aircraft identification number so the proper flight plan is cancelled. The controller 32 accesses the storage device 38 to determine the flight plan data."

Thus, no status data or any other flight performance data is transmitted when switch 14 is closed during a crash or landing, and more specifically, no transmission of flight performance data that has been accumulated and stored over the complete flight of the aircraft is made.

As noted in Appellants' Appeal Brief on pages 20-23, during a normal landing, switch 14 is activated either manually or automatically and at that time the flight plan is cancelled. Position data is not transmitted during a normal landing because the position is already known (the aircraft has safely landed at its destination). The only requirement is to cancel the flight plan.

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The Examiner uses the Miller reference to show the conventionality of a flight parameter such as vertical acceleration. Vertical acceleration is one of the requirements of the FAA guidelines as noted above and cuts against the Examiner's argument that new matter is added.

Indeed, the combination of Ross and Miller are mutually exclusive of each other according to the Examiner's arguments because vertical acceleration would be zero whenever switch 14 is closed upon landing (or the aircraft crashing).



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**IV. Conclusion**

In light of Appellants' reply to the Examiner's arguments, it is respectfully submitted that all of the claims are patentable over the prior art and no new matter has been added. Accordingly, the Board of Patent Appeals and Interferences is respectfully requested to reverse the earlier unfavorable decision by the Examiner to refuse to provoke an interference with Grabowsky.

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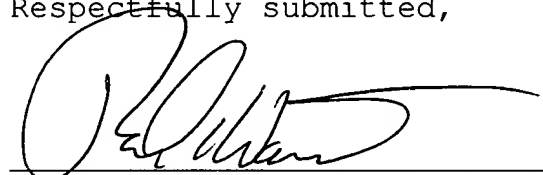
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